

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ADRIAN HERRERA-PERALTA,

Petitioner,

v.

WARDEN DAVID ORTIZ,

Respondent.

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Civ. No. 20-8958 (NLH)

MEMORANDUM ORDER TO SEAL

APPEARANCES:

Adrian Herrera-Peralta
69439-066
Fort Dix Federal Correctional Institution
P.O. Box 2000
Joint Base MDL, NJ 08640

Petitioner Pro se

Rachael A. Honig, Acting United States Attorney
Jane Dattilo, Assistant United States Attorney
United States Attorney's Office for the District of NJ
970 Broad Street
7th Floor
Newark, NJ 08101

Counsel for Respondent

HILLMAN, District Judge

WHEREAS, Petitioner Adrian Herrera-Peralta brings this
petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241
challenging his prison disciplinary sanctions, see ECF No. 1;
and

WHEREAS, the United States opposes the petition, ECF No. 9;
and

WHEREAS, the Disciplinary Hearing Officer indicated in his report that he relied on the photograph of the confiscated cell phone and the Secure Pass image in issuing sanctions, ECF No. 9-1 at 25; and

WHEREAS, the images submitted with the answer are little more than black squares; therefore it was not clear what those images depicted, id. at 27-28; and

WHEREAS, the Court concluded that clearer images of the photographs were necessary for resolution of the § 2241 petition and directed the United States to supplement its answer, ECF No. 12; and

WHEREAS, the United States subsequently submitted an exhibit containing the images, ECF No. 14; and

WHEREAS, the United States now moves to seal the photographs as they include a body scan of Petitioner's body, ECF No. 15; and

WHEREAS, "[i]t is well-settled that there exists, in both criminal and civil cases, a common law public right of access to judicial proceedings and records. The public's right of access extends beyond simply the ability to attend open court proceedings. Rather, it envisions a pervasive common law right to inspect and copy public records and documents, including judicial records and documents." In re Cendant Corp., 260 F.3d

183, 192 (3d Cir. 2001) (internal citations and quotation marks omitted); and

WHEREAS, a party seeking to seal portions of the judicial record from public view bears party "bears the heavy burden of showing that the material is the kind of information that courts will protect and that disclosure will work a clearly defined and serious injury to the party seeking closure." Millhouse v. Ebbert, 674 F. App'x 127, 128 (3d Cir. 2017) (per curiam) (internal quotation marks and citations omitted); and

WHEREAS, the exhibit includes images of Petitioner's body scan. The Court concludes Petitioner has a strong privacy interest in keeping that image off the public docket; and

WHEREAS, the other documents relied on by the Disciplinary Hearing Officer remain accessible to the public, the Court concludes that sealing only the exhibit is the least restrictive means of protecting Petitioner's privacy interest,

Therefore, IT IS on this 17th day of May, 2021,

ORDERED that the motion to seal the exhibit, ECF No. 15, shall be, and hereby is, granted. The Clerk shall seal Docket Entry 14; and it is finally

ORDERED that the Clerk shall serve a copy of this Order on Petitioner by regular U.S. mail.

At Camden, New Jersey

s/ Noel L. Hillman
NOEL L. HILLMAN, U.S.D.J.